

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IOWA SQUARE REALTY LLC,

Plaintiff,

-v-

RAVINDER THOTA and YASHODHARA
DEVI THOTA,

Defendants.

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No. 17-cv-9933 (RJS)
ORDER

RICHARD J. SULLIVAN, Circuit Judge:

On October 7, 2019, Defendants filed a notice of appeal from the Court's September 9, 2019 Order granting Plaintiff's motion to enforce the parties' July 26, 2018 settlement agreement. (Doc. Nos. 91, 93.) However, the Court is now in receipt of a letter from Plaintiff's counsel, dated January 10, 2020, reporting that the parties have agreed to dismiss the appeal if the Court "amend[s] or modif[ies]" its September 9, 2019 Order "to reflect that this Court will retain jurisdiction to enforce the settlement." (Doc. No. 94.) Because Defendants' appeal remains pending, the Court lacks jurisdiction to modify or amend the September 9, 2019 Order at this time. *See Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982); *Doe v. Gonzales*, 449 F.3d 415, 420 (2d Cir. 2006). Nevertheless, construing the parties' joint request as a motion for an "indicative ruling" under Federal Rule of Appellate Procedure 12.1, the Court hereby indicates that it would, upon remand from the Court of Appeals or dismissal of the appeal, be inclined to amend its September 9, 2019 Order to reflect its retention of jurisdiction to enforce the parties'

settlement in the event such an amendment is necessary.¹ The appropriate course is thus for the parties to request remand or dismissal of the appeal in the Court of Appeals in the first instance, and upon such remand or dismissal, to then renew their January 10, 2010 request before this Court.

Accordingly, IT IS HEREBY ORDERED THAT the parties shall promptly notify the Court upon remand or dismissal of Defendants' appeal, at which time the parties may renew their request that the Court amend or modify its September 9, 2019 Order for the purpose of retaining jurisdiction to enforce the settlement. IT IS FURTHER ORDERED THAT, in renewing their request, the parties shall also address whether and why it is necessary for the Court to amend its September 9, 2019 Order in light of the Court's prior retention of jurisdiction.

SO ORDERED.

Dated: January 14, 2020
 New York, New York


RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting By Designation

¹ The Court notes that such an amendment seems unnecessary, given that the Court previously retained jurisdiction to enforce the parties' July 26, 2018 settlement agreement (Doc. No. 70), and the Court's September 9, 2019 Order did not alter that prior retention of jurisdiction.